

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

Kent Garvey, on behalf of himself and all others similarly situated,

Plaintiff(s),

James Arkoosh, Samuel Belzberg, Peter Klein and Diomed Holdings, Inc.,

Defendants.

Master File No.

04cv10438RGS

Motion to Consolidate Related Actions,  
Appoint Lead Plaintiff and for Approval of  
Lead Plaintiffs' Selection of Counsel

CLASS ACTION

Plaintiffs Demand a Trial by Jury

Pursuant to Section 21 D of the Securities and Exchange Act of 1934, 15 U.S.C. § 78u-4(a)(3)(B), as amended by the Private Securities Litigation Reform Act of 1995 (the "PSLRA"), Kent Garvey, Albert Overhauser, James T. Marsh, Roger E. Buck, and Thomas Loveless ("Movants") move this honorable for an order:

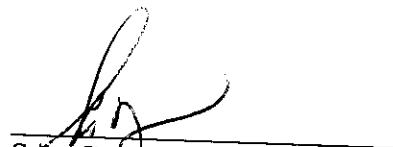
- (a) consolidating all related actions filed in the United States District Court for the District of Massachusetts which are related to the above-captioned actions for all purposes, pursuant to Fed. R. Civ. P. 42(a);
- (b) appointing Movants to serve as Lead Plaintiffs in the Consolidated actions; and
- (c) approving Movants' selection of The Rosen Law Firm P.A., 350 Fifth Avenue, Suite 5508, New York, New York 10118, as Lead Counsel and the Law Office of Scott P. Lopez, 24 School Street, 8th Floor, Boston, Massachusetts 02108 as Liaison Counsel for the litigation and all subsequently filed related litigation.

In support of this Motion, Movants submit: (1) the Declaration of Laurence M. Rosen dated May 17, 2004; (2) Memorandum of Law dated May 17, 2004, and (3) a proposed order

granting Movants' Motion for Consolidation of all related actions, Appointment as Lead Plaintiffs, and approval of their selection of Counsel.

DATED: 5/18/2004

LAW OFFICE OF SCOTT P. LOPEZ



\_\_\_\_\_  
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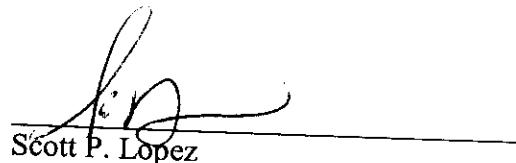
Proposed Liaison Counsel for Plaintiffs

THE ROSEN LAW FIRM, P.A.  
Laurence Rosen  
The Rosen Law Firm, P.A.  
350 Fifth Avenue, Suite 5508  
New York, NY 10001  
Telephone: (212) 686-1060  
Facsimile: (212) 202-3827  
lrosen@rosenlegal.com

Proposed Lead Counsel for Plaintiffs

LOCAL RULE 7.1 CERTIFICATION

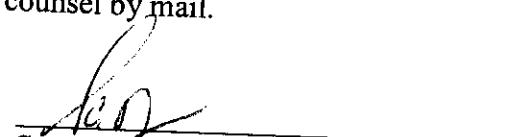
I hereby certify that the filing of this motion is mandated by statute and that prior to filing this motion I was unable to confer with defense counsel because defendants have not yet been served with plaintiff's Complaint.



\_\_\_\_\_  
Scott P. Lopez

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2004 a true copy of the above document was served upon each party whose address is known to undersigned counsel by mail.



\_\_\_\_\_  
Scott P. Lopez